

WILLIAM ALLEN MEANS v.
E.M. PETERSON, et al.

ERIC PETERSON
04/26/2021

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WILLIAM ALLEN MEANS,

Plaintiff,

vs.

CIVIL ACTION
NO. 2:20-cv-00561

E.M. PETERSON, D. HARVEY,
and THE CITY OF SOUTH
CHARLESTON,

Defendants.

Deposition of Eric Peterson taken by the
Plaintiff under the West Virginia Rules of Civil
Procedure in the above-entitled action, pursuant to
notice, before Angela L. Curtis, a Certified Court
Reporter, at Pullin, Fowler, Flanagan, Brown & Poe, 901
Quarrier Street, Charleston, West Virginia, on the 26th
day of April 2021.

REALTIME REPORTERS, LLC
ANGELA L. CURTIS, CCR
713 Lee Street
Charleston, WV 25301
(304) 344-8463
realtimereporters.net

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schedulingrealtime@gmail.com 304-344-8463

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APPEARANCES:

APPEARING FOR THE PLAINTIFF:

Dante diTrapano, Esquire
CALWELL LUCE DITRAPANO, PLLC
500 Randolph Street
Charleston, WV 25302

W. Jesse Forbes, Esquire
FORBES LAW OFFICES, PLLC
1118 Kanawha Boulevard, East
Charleston, WV 25301

APPEARING FOR THE DEFENDANTS:

Duane J. Ruggier, II, Esquire
PULLIN, FOWLER, FLANAGAN, BROWN & POE, PLLC
James Mark Building
901 Quarrier Street
Charleston, WV 25301

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Exhibit 1	Motion for Protective Order	Previously Marked
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1 PROCEEDINGS
2 VIDEO OPERATOR: This is the videotaped
3 deposition of E.M. Peterson taken by the plaintiff in
4 the matter of William Allen Means versus E.M. Peterson,
5 et. al. being civil action number 2:20-CV-00561 in the
6 US District Court for the Southern District of West
7 Virginia at Charleston held at the offices of
8 Pullin, Fowler, Flanagan, Brown and Poe in
9 Charleston, West Virginia on this 26th day of
10 April, 2021.

11 My name is Chris Leigh and I'm the
12 certified legal video specialist. The court reporter
13 is Angie Curtis. We're now on the record. The time is
14 approximately 2:13 p.m. Would counsel please introduce
15 themselves and whom they represent?

16 MR. FORBES: Jesse Forbes and Dante
17 diTrapano on behalf of the plaintiff Billy Means.

18 MR. RUGGIER: Duane Ruggier on behalf of
19 Officers Peterson and Harvey.

20 VIDEO OPERATOR: Would the court reporter
21 please swear in the witness?

22 E R I C P E T E R S O N
23 was called as a witness by the Plaintiff, pursuant
24 to notice, and having been first duly sworn,
testified as follows:

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1 EXAMINATION
2
3 BY MR. FORBES:
4 Q. State your name for the record please.
5 A. Eric M. Peterson.
6 Q. And how are you employed?
7 A. The South Charleston Police Department, South
8 Charleston, Kanawha County, West Virginia.
9 Q. How long have you been with them?
10 A. Going on 13 years.
11 Q. Have you had your deposition taken before?
12 A. Have I had a deposition taken before? Yes,
13 sir.
14 Q. Okay. About how many times?
15 A. This will be my third.
16 Q. Okay. So you're generally familiar with the
17 rules and I know you've testified a lot in court
18 proceedings, but let me just kind of go over some
19 ground rules, okay?

20 I'm going to ask questions and when I finish asking
21 the question, answer the question, try to let me finish
22 so we're not talking over one another, otherwise she'll
23 of throw stuff at us.
24

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1 If you don't understand something that I ask, ask
2 me to rephrase it, tell me you didn't understand it.
3 If you answer a question, I'm going to assume you knew
4 what I was getting at, what I meant and that you
5 answered it because you did understand my question. Is
6 that fair?

7 A. Yes, sir.

8 Q. Are you under the influence of anything
9 medically, a prescription medication, drugs or alcohol,
10 that would inhibit your ability to testify truthfully
11 here today?

12 A. No, sir.

13 Q. And you understand that you have the right to
14 remain silent in this proceeding given some of the
15 accusations that have been brought in this case. You
16 have a Fifth Amendment protection; correct?

17 A. Yes, sir.

18 Q. You are appearing here voluntarily with your
19 attorney. Do you have a criminal lawyer or just --

20 A. No, sir, I do not.

21 Q. Okay and I know Officer Harvey had a criminal
22 lawyer; correct?

23 A. Yes, sir.

24 Q. But you yourself have not obtained criminal

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1 counsel in this, have you?
2 A. No, sir.
3 Q. I want to show you what's been marked as
4 Exhibit 1. If I can find it without messing all this
5 up. I'm going to hand you what's been previously
6 marked as Exhibit 1. Would you take a look at that
7 tell me if you know what that is?
8 A. Would you like me to read it, sir?
9 Q. No, I just want to make sure you know what it
10 is.
11 A. Is this the complaint?
12 Q. No, sir. That's a motion that was filed on
13 your behalf by your lawyer.
14 A. Was this the motion that was filed the Monday
15 before last or --
16 Q. This was a motion that was filed to postpone
17 the last time we had the deposition scheduled.
18 A. Oh, I'm sorry. Yes, sir.
19 Q. Are you aware of that?
20 A. Yes, sir.
21 Q. Had you seen that motion before it was filed?
22 Take your time to read it if you want to.
23 MR. RUGGIER: Please note my objection to
24 this whole line of questioning over the motion for

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1 protective order and/or stay as it is not relevant to
2 the cause of action.
3 A. We spoke about this.
4 Q. Well --
5 MR. RUGGIER : We talked about that.
6 A. Right.
7 Q. I'm not going to ask you -- I don't want to
8 know about any communication you had with your attorney
9 or your attorney's office, okay? I just want to make
10 sure you've had a chance to read that motion.
11 A. Okay.
12 Q. I'm going to direct you to Paragraph 11.
13 A. Okay.
14 Q. Okay, so take a read on Paragraph 11.
15 A. Okay. I've read it.
16 Q. Okay. Did you file this motion because you
17 believe that you'd have to take the Fifth Amendment if
18 we'd gone forward at the last deposition?
19 MR. RUGGIER : Objection. That motion
20 was filed by counsel.
21 MR. FORBES: It's on his behalf and it
22 says he's going to likely have to plead the Fifth, so I
23 want to know whether he intended to plead the Fifth two
24 weeks ago.

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1 MR. RUGGIER: I'm not sure that's really
2 anything discoverable in this case. You can answer if
3 you can.
4 THE DEPONENT: I'm sorry, sir, what was
5 it?
6 MR. RUGGIER: I said I'm not really sure
7 if that's discoverable, but you can answer if you can.
8 A. No, sir, I planned to be here on my last
9 deposition date and I did not plan to plea the Fifth on
10 that date if that's what you're asking.
11 Q. That's what I'm asking. That's what I'm
12 getting at is we were scheduled to come to a deposition
13 and we were scheduled to be here. We noticed the
14 deposition on March 1st, 2021, the plaintiff noticed
15 your deposition for March 30th, 2021.
16 And then on March 29th, 2021 your lawyer filed a
17 motion on your behalf to postpone the deposition
18 stating that defendants, with an S, including you, will
19 likely have to plead the Fifth at the deposition which
20 may result in an adverse inference instruction and, of
21 course, prejudice defendants. Are you saying you never
22 intended to plead the Fifth Amendment?
23 A. No, sir.
24 Q. Okay and are you saying you were perfectly

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1 willing to come testify at your deposition?
2 A. On that afternoon of the previous deposition
3 and I was available and wanting to attend.
4 Q. Okay. Are you aware there was a motion filed
5 on your behalf to stop the deposition?
6 A. In regards to -- I don't -- I don't know how
7 to answer that in regards to without having a
8 conversation with Duane.
9 Q. Let me ask it this way: Did you authorize
10 this motion to be filed?
11 MR. RUGGIER : Object to the form of the
12 question. Attorney client privilege.
13 MR. FORBES: Are you instructing him not
14 to answer that?
15 MR. RUGGIER : Yeah.
16 MR. FORBES: Okay.
17 Q. Are you aware there was an FBI investigation
18 of the events involving Billy Means on May 2nd, 2020?
19 A. Yes, sir. I spoke with the FBI.
20 Q. When did you learn of the FBI investigation?
21 A. I don't -- I don't recall the exact date.
22 There was an FBI agent that called our lieutenant and
23 asked to speak with us and that was sometime before I
24 made Duane aware of it.

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1 Q. Okay. So there was an FBI agent that called
2 your lieutenant, which lieutenant was this?
3 A. Lieutenant Gordon I believe it was.
4 Q. Do you know the FBI agent that called him?
5 A. I do not recall the name. There were two.
6 Q. Do you know approximately what month that
7 occurred in?
8 A. Goodness, sir, that was -- I don't recall the
9 exact date. That was either -- that was either last
10 month or this month. I believe we had a meeting Friday
11 before our depositions and that's when I spoke with
12 Mr. Ruggier in regards --
13 Q. Again, I'm not going to ask you about
14 anything --
15 MR. RUGGIER : You can't talk about that.
16 Q. I'm not asking about conversations you had
17 with your attorney.
18 A. Okay.
19 Q. I want to know when, to the best of your
20 recollection, when did Lieutenant Gordon tell you the
21 FBI called wanting to talk?
22 A. It was either last month or this month. On
23 that date he talked to me, I called him, I called the
24 FBI agent back and agreed to meet with him on another

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1 date that same week.
2 Q. Do you know when you met with the FBI?
3 A. Sir, I don't recall the exact date.
4 Q. Do you know if it was in March or February or
5 April? Let me ask you this: Do you know whether it
6 was before we had the deposition notice? So we were
7 planning to come take your deposition on March 30th.
8 Did you meet with the FBI before that or after?
9 A. I had already received notice of the
10 deposition prior to meeting with the two FBI agents.
11 Q. Okay. The notice was issued on March 1st.
12 A. Okay.
13 Q. For March 30th deposition. Do you think it
14 was somewhere in that period?
15 A. Yes, sir, it was.
16 Q. I don't know when it was, so I'm trying to get
17 a sense --
18 A. I understand.
19 Q. -- whether the FBI meeting was before this
20 motion got filed or after.
21 A. This motion was filed after I met with the two
22 FBI agents.
23 Q. Okay. That's what I was trying to get at.
24 Trying to get a timing and I'm sorry if it was poorly

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1 phrased the way I'm asking it. I'm trying to get a
2 sense when you met with them. So you met with the two
3 FBI agents prior to this March 29th filing as far as
4 you know?
5 A. Yes, sir. Yes, sir.
6 Q. Okay. Was your meeting with the FBI recorded?
7 A. Yes, sir.
8 Q. Okay. Did you record it or just them?
9 A. I did.
10 Q. You did?
11 A. Yes, sir.
12 Q. Do you have a copy of that recording?
13 A. They -- I turned the copy over to them and
14 then our police department.
15 Q. So South Charleston Police Department has a
16 copy of the recorded meeting between you and the FBI?
17 A. I believe so, yes, sir. It's recorded -- it's
18 recorded in an interview room.
19 Q. Okay.
20 MR. FORBES: Duane, we don't have that.
21 MR. RUGGIER: That makes two of us.
22 MR. FORBES: Let's take a break for a
23 second. Let's go off the record.
24 VIDEO OPERATOR: Time is 2:23 p.m. We're

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1 off the record.
2 (A brief recess was taken after which the
3 deposition continued as follows:)
4 VIDEO OPERATOR: Time is 2:27 p.m. We
5 are on the record.
6 MR. RUGGIER: FBI came, interviewed
7 Officer Peterson and there is a recording of that
8 interview at South Charleston Police Department. I was
9 not aware of that.
10 MR. FORBES: I understand you weren't
11 aware of it, just became aware of it as we sit here
12 today, but that is a recording I believe we need in
13 order to continue this deposition and it's clearly
14 something that needs to be turned over in discovery, so
15 I think we're going to have to continue the deposition
16 until we can get that from you. How quick can we get
17 the video?
18 MR. RUGGIER: I don't know. I don't
19 know what to tell you. I do not know. I will speak to
20 the chief and see if we can get the video as soon as
21 possible. I think it's -- I would presume, without
22 looking into it any further, it's going to be
23 discoverable.
24 MR. FORBES: I would think.

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1 MR. RUGGIER: And I will talk to the
2 chief and we'll get it to you guys as soon as I get it.
3 MR. FORBES: Officer Peterson or Corporal
4 Peterson?
5 THE DEPONENT: Officer is fine, sir. I'm
6 not a status person.
7 MR. FORBES: I answer to anything and
8 people call me a lot of stuff. We had difficulty in
9 scheduling -- I think we were trying already to see if
10 there's different dates that might work. Are there
11 better days for you? I'd like to go ahead and get a
12 date set as we're sitting in this room because we've
13 got deadlines coming up in this case.
14 MR. RUGGIER: I understand. That's fine
15 with me. What days are good for -- I mean, are we off
16 the record now?
17 MR. FORBES: We can go off the record.
18 VIDEO OPERATOR: Time is 2:29 p.m. and we
19 are off the record.
20 (Whereupon the deposition was continued
21 to Tuesday, May 4, 2021 at 1:00 p.m.)
22 (Having indicated he would like to read
23 his deposition before filing, further this deponent
24 saith not.)

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